

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

JOSEPH JORDAN,

Petitioner,

Case No. 07-C-382

-vs-

WILLIAM POLLARD,

Respondent.

DECISION AND ORDER

Joseph Jordan (“Jordan”) appeals from the Court’s dismissal of his action under 28 U.S.C. § 2254 as a “mixed petition.” The Court dismissed Jordan’s petition because he failed to demonstrate that his unexhausted claim was potentially meritorious. *See Rhines v. Weber*, 544 U.S. 269, 278 (2005) (court may stay mixed petition if petitioner has “good cause for his failure to exhaust, his unexhausted claims are potentially meritorious, and there is no indication that the petitioner engaged in intentionally dilatory litigation tactics”).

A certificate of appealability (“COA”) may issue only if the applicant makes a substantial showing of the denial of a constitutional right. *See* 28 U.S.C. § 2253(c)(2). Since the Court denied Jordan’s motion on procedural grounds without reaching his constitutional claim, “a COA should issue when the prisoner shows, at least, that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its

procedural ruling.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). Jordan fails to make the required showing.

**NOW, THEREFORE, BASED ON THE FOREGOING, IT IS HEREBY
ORDERED THAT:**

Jordan’s request for a COA is **DENIED**.

Dated at Milwaukee, Wisconsin, this 24th day of August, 2007.

SO ORDERED,

s/ Rudolph T. Randa
HON. RUDOLPH T. RANDA
Chief Judge